

Introduced by Senator Corbett

February 23, 2007

An act to amend Section 627 of, to add Sections 22358.6 and 22358.7 to, and to repeal and add Section 40802 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 848, as amended, Corbett. Vehicles: *engineering and traffic survey*: speed trap.

~~Existing~~

(1) Existing law defines the term “engineering and traffic survey,” for purposes of the Vehicle Code, as meaning a survey of highway and traffic conditions in accordance with methods determined by the Department of Transportation for use by state and local authorities.

This bill would require that those methods consist of the methods specified in the department’s Manual for Uniform Traffic Control Devices, California Supplement, as revised from time to time. The bill would also require that the posted speed limit be rounded down to the nearest 5 miles per hour increment of the 85th percentile speed.

The bill would require an engineering and traffic survey to be conducted in consultation with the law enforcement agency that has primary traffic jurisdiction over the highway that is surveyed.

The bill would also require the Department of Transportation or a city or county to conduct an engineering and traffic survey when there is a significant modification to a highway, including, but not limited to, a change in width, curvature, grade, intersection, or surface condition in that highway.

Because this bill would increase the level of services imposed on a city or county, this bill would impose a state-mandated local program.

(2) Existing law authorizes a city or county to increase or decrease an existing speed limit on a particular portion of a highway in accordance with specific statutory authority.

This bill would require a local city or county prior to increasing or decreasing a speed limit based upon an engineering and traffic survey to consult with, and take into account the traffic safety considerations of, the local law enforcement agency that has primary traffic responsibility for that particular portion of the highway.

(3) Existing law prohibits a peace officer or other person from using a speed trap in arresting a person for violating the Vehicle Code. Existing law defines the term “speed trap” for that and related purposes to include, in the alternative, either of the following: (A) a particular section of highway as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance; or (B) a particular section of a highway with a prima facie speed limit as provided by the Vehicle Code or by local ordinance, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within 5 or 7, years, as specified prior to the date of an alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects.

This bill would ~~express the intent of the Legislature to enact appropriate legislation to revise the statutory~~ delete (B) as an alternative definition of the term “speed trap.”

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 627 of the Vehicle Code is amended to*
2 *read:*

3 627. (a) “Engineering and traffic survey,” as used in this code,
4 means a survey of highway and traffic conditions in accordance
5 with methods determined by the Department of Transportation,
6 *as specified in the department’s Manual for Uniform Traffic*
7 *Control Devices, California Supplement, as revised from time to*
8 *time, for use by state and local authorities.*

9 (b) An engineering and traffic survey shall include, among other
10 requirements deemed necessary by the ~~department~~ *Department of*
11 *Transportation*, consideration of all of the following *factors*:

12 (1) Prevailing speeds as determined by traffic engineering
13 measurements.

14 (2) Accident records.

15 (3) Highway, traffic, and roadside conditions not readily
16 apparent to the driver.

17 (4) *When determining the posted speed limit, that speed limit*
18 *shall be rounded down to the nearest five miles per hour increment*
19 *of the 85th percentile speed.*

20 (c) *An engineering and traffic survey shall be conducted in*
21 *consultation with the law enforcement agency that has primary*
22 *traffic jurisdiction over the highway that is surveyed.*

23 ~~(e)~~

24 (d) When conducting an engineering and traffic survey, local
25 authorities, in addition to the factors set forth in paragraphs (1) to
26 ~~(3)~~ (4), inclusive, of subdivision (b) may consider all of the
27 following:

28 (1) Residential density, if any of the following conditions exist
29 on the particular portion of highway and the property contiguous
30 thereto, other than a business district:

31 (A) Upon one side of the highway, within a distance of a quarter
32 of a mile, the contiguous property fronting thereon is occupied by
33 13 or more separate dwelling houses or business structures.

34 (B) Upon both sides of the highway, collectively, within a
35 distance of a quarter of a mile, the contiguous property fronting
36 thereon is occupied by 16 or more separate dwelling houses or
37 business structures.

(C) The portion of highway is longer than one-quarter of a mile but has the ratio of separate dwelling houses or business structures to the length of the highway described in either subparagraph (A) or (B).

(2) Pedestrian and bicyclist safety.

SEC. 2. Section 22358.6 is added to the Vehicle Code, to read:

22358.6. The Department of Transportation or local transportation authority shall conduct an engineering and traffic survey whenever there is significant modification to a highway, including, but not limited to, a change in width, curvature, grade, intersection, or surface condition to that highway.

SEC. 3. Section 22358.7 is added to the Vehicle Code, to read:

22358.7. Whenever a local authority determines, upon the basis of an engineering and traffic survey, to increase or decrease the existing speed limit on a particular portion of a highway pursuant to Section 22357, 22358, 22358.3, 22358.4, 22360, or 22364, the local authority shall, prior to increasing or decreasing that speed limit, consult with, and take into account the traffic safety considerations of, the local law enforcement agency that has primary traffic responsibility for that particular portion of the highway.

SEC. 4. Section 40802 of the Vehicle Code is repealed.

~~40802. (a) A “speed trap” is either of the following:~~

~~(1) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.~~

~~(2) A particular section of a highway with a prima facie speed limit that is provided by this code or by local ordinance under subparagraph (A) of paragraph (2) of subdivision (a) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects. This paragraph does not apply to a local street, road, or school zone.~~

~~(b) (1) For purposes of this section, a local street or road is defined by the latest functional usage and federal-aid system maps submitted to the federal Highway Administration, except that when~~

1 these maps have not been submitted, or when the street or road is
2 not shown on the maps, a “local street or road” means a street or
3 road that primarily provides access to abutting residential property
4 and meets the following three conditions:

5 (A) Roadway width of not more than 40 feet.

6 (B) Not more than one-half of a mile of uninterrupted length.
7 Interruptions shall include official traffic control signals as defined
8 in Section 445.

9 (C) Not more than one traffic lane in each direction.

10 (2) For purposes of this section “school zone” means that area
11 approaching or passing a school building or the grounds thereof
12 that is contiguous to a highway and on which is posted a standard
13 “SCHOOL” warning sign, while children are going to or leaving
14 the school either during school hours or during the noon recess
15 period. “School zone” also includes the area approaching or passing
16 any school grounds that are not separated from the highway by a
17 fence, gate, or other physical barrier while the grounds are in use
18 by children if that highway is posted with a standard “SCHOOL”
19 warning sign.

20 (c) (1) When all of the following criteria are met, paragraph
21 (2) of this subdivision shall be applicable and subdivision (a) shall
22 not be applicable:

23 (A) When radar is used, the arresting officer has successfully
24 completed a radar operator course of not less than 24 hours on the
25 use of police traffic radar, and the course was approved and
26 certified by the Commission on Peace Officer Standards and
27 Training.

28 (B) When laser or any other electronic device is used to measure
29 the speed of moving objects, the arresting officer has successfully
30 completed the training required in subparagraph (A) and an
31 additional training course of not less than two hours approved and
32 certified by the Commission on Peace Officer Standards and
33 Training.

34 (C) (i) The prosecution proved that the arresting officer
35 complied with subparagraphs (A) and (B) and that an engineering
36 and traffic survey has been conducted in accordance with
37 subparagraph (B) of paragraph (2). The prosecution proved that,
38 prior to the officer issuing the notice to appear, the arresting officer
39 established that the radar, laser, or other electronic device
40 conformed to the requirements of subparagraph (D).

~~(ii) The prosecution proved the speed of the accused was unsafe for the conditions present at the time of alleged violation unless the citation was for a violation of Section 22349, 22356, or 22406.~~

~~(D) The radar, laser, or other electronic device used to measure the speed of the accused meets or exceeds the minimal operational standards of the National Traffic Highway Safety Administration, and has been calibrated within the three years prior to the date of the alleged violation by an independent certified laser or radar repair and testing or calibration facility.~~

~~(2) A “speed trap” is either of the following:~~

~~(A) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.~~

~~(B) (i) A particular section of a highway or state highway with a prima facie speed limit that is provided by this code or by local ordinance under subparagraph (A) of paragraph (2) of subdivision (a) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within one of the following time periods, prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects:~~

~~(I) Except as specified in subclause (II), seven years.~~

~~(II) If an engineering and traffic survey was conducted more than seven years prior to the date of the alleged violation, and a registered engineer evaluates the section of the highway and determines that no significant changes in roadway or traffic conditions have occurred, including, but not limited to, changes in adjoining property or land use, roadway width, or traffic volume, 10 years.~~

~~(ii) This subparagraph does not apply to a local street, road, or school zone.~~

SEC. 5. Section 40802 is added to the Vehicle Code, to read:

40802. A “speed trap” is a particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

1 *SEC. 6. If the Commission on State Mandates determines that*
2 *this act contains costs mandated by the state, reimbursement to*
3 *local agencies and school districts for those costs shall be made*
4 *pursuant to Part 7 (commencing with Section 17500) of Division*
5 *4 of Title 2 of the Government Code.*

6 ~~SECTION 1. It is the intent of the Legislature to enact~~
7 ~~appropriate legislation to revise the statutory definition of the term~~
8 ~~“speed trap.”~~